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8 OCTAVIAN CRISHAN

FILED

2008 JUL 15 PM 2:16

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY [Signature] DEPUTY

9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 '08 CV 1271 LAB JMA

12 OCTAVIAN CRISHAN,

13 Def endant,

14 vs.

15 PEOPLE OF THE STATE OF CALIFORNIA,

16 Plaintiff.

17 No. _____
18 State Case No. CN 225221
19 State DA No. OAY937

20 APPLICATION AND ORDER FOR
21 ISSUANCE OF A FEDERAL
22 SUBPOENA TO COMPEL
23 PRODUCTION OF DOCUMENTS
24 FROM TRIBAL ENTITIES TO BE
25 PRODUCED IN SAN DIEGO
26 COUNTY SUPERIOR COURT

27 COMES NOW Octavian Crishan, through his counsel, John Cotsirilos, who represents
28 and shows:

29 There is now on the tribal land of the tribal sovereign, known as the Rincon San Luiseno
30 band of Mission Indians and on the tribal entity of the Pauma Band of Mission Indians
31 documents that are material to the above-entitled matter which is set for jury trial on August 12,
32 2008, at 9:00 a.m., in the San Diego Superior Court, North County Division, Department 21; that
33 the only method to compel production of these documents located on these lands of tribal
34 sovereigns is to petition the federal court to issue a federal subpoena addressed to the Custodian
35 of Records for these documents; that tribes are immune from the enforcement of state court

ORIGINAL

subpoenas to compel production of documents. See, Bishop Paiute Tribe v. the County of Inyo, 275 F.3d 893 (2002), certiorari granted, 123 S.Ct. 618, reaffirming that tribes are immune from subpoena enforcement; however, tribes are subject to the service of federal subpoenas. See, In Re Long Visitor, 573 F.2d 443 (10th Cir. 1975); that California law requires utilization of a federal subpoena pursuant to 28 USC § 1783 prior to a finding that a witness or documents are unavailable; that California law requires utilization of a federal subpoena pursuant to 28 USC § 1783 prior to admission of former testimony of an absent witness; that is necessary to have said documents present in court; and that in order to compel their presence is necessary that a federal subpoena be issued pursuant to 28 USC § 783 commanding the Custodian of Records to appear in Department 21 of the San Diego County Superior Court at Vista, located at 325 S. Melrose Drive, Vista, California, or on such other dates as may be necessary, and at all other proceedings incident thereto.

WHEREFORE, your petitioner prays for the issuance of federal subpoenas pursuant to 28 USC § 1783 out of and under the seal of this federal court, directed to:

- 1) Harrah's Rincon San Diego, 777 Harrah's Rincon Way, Valley Center, CA 92082, requesting (1) all records of losses, player records, comps for Herman Wiesemeyer, DOB [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is [REDACTED]. The same material regarding Allison Geller, DOB [REDACTED], and Matthew Vivian, DOB [REDACTED]; Social Security Number [REDACTED].
- 2) To the Custodian of Records at Pala Casino Spa & Resort, 11154 Highway 76, Pala, California 92059, requesting (1) all records of losses, player records, comps for Herman Wiesemeyer, DOB [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is [REDACTED]. The same material regarding Allison Geller, DOB [REDACTED]; and Matthew Vivian, DOB [REDACTED]; Social Security Number [REDACTED]; and
- 3) To the Custodian of Records of Casino Pauma, 777 Pauma Reservation Road, Pauma Valley, CA 92061, requesting (1) all records of losses, player records, comps for Herman

1 Wiesemeyer, DOB [REDACTED]; (2) also note Mr. Wiesemeyer's Social Security Number is
2 [REDACTED]. The same material regarding Allison Geller, DOB [REDACTED]; and Matthew
3 Vivian, DOB [REDACTED]; Social Security Number [REDACTED]; and commanding the
4 Custodian of Records to appear before the San Diego Superior Court or at such time
5 thereafter as may be necessary, or otherwise appropriately produce the records.
6

7
8 DATED: June 20, 2008

9 
JOHN COTSIRILOS
Attorney for Octavian Crishan
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14 [REDACTED]
15 [REDACTED] If the Court finds the foregoing application, IT IS ORDERED that [REDACTED]
16 [REDACTED] pursuant to C.C.P. § 1702.1 e.
17
18 [REDACTED]
19

20 [REDACTED]
21 [REDACTED] District of California
22
23
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26
27
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PROOF OF PERSONAL SERVICE

Case Name: Octavian Crishan

Case No. _ CN225221

I declare:

I am employed in the County of San Diego, California. I am over 18 years of age and not a party to the within entitled cause; my business address is 2442 Fourth Avenue, San Diego, CA 92101.

On June 24, 2008, I served the attached:

**APPLICATION AND ORDER FOR ISSUANCE OF A FEDERAL SUBPOENA TO
COMPEL PRODUCTION OF DOCUMENTS FROM TRIBAL ENTITIES TO BE
PRODUCED IN SAN DIEGO COUNTY SUPERIOR COURT**

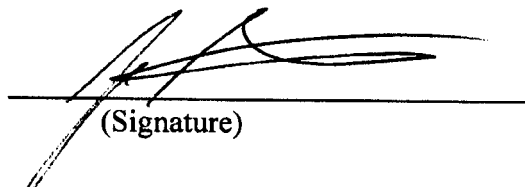
in said cause, by delivering a true copy to:

UNITED STATES DISTRICT COURT
940 Front Street
San Diego, CA 92101

I declare under penalty of perjury the foregoing is true and correct, and this declaration was executed at San Diego, California, on June 25, 2008

JOHN COTSIRILOS

(Typed Name)


(Signature)

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

OCTAVIAN CRISHAN

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John Cotsirilos (619) 232-6022

2442 Fourth Avenue San Diego, CA 92101

DEFENDANTS

STATE OF CALIFORNIA

County of San Diego
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
SOUTHERN DISTRICT OF CALIFORNIAAttorneys (If Known) 08 CV 1271 LAB JMA
Deputy District Attorney Paul H. Meyers

325 S. Melrose Drive, Suite 500 Vista, CA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☒ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	PROPERTY	LABOR	OTHER
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

- (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Federal Question

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

7/15/08

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 153000

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

TAC

7/15/08

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

153000 - TC

**July 15, 2008
14:13:55**

Civ Fil Non-Pris

USAO #.: 08CV1271

Judge.: LARRY A BURNS

Amount.: \$350.00 CK

Check#.: BC1063

Total-> \$350.00

**FROM: OCTAVARIAN CRISHAN
VS
STATE OF CA**